

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

Kentrell D. Welch,

Plaintiff,

v.

Dr. Robinson, et al.,

Defendants.

Case No. 2:24-cv-00500-JAD-BNW

ORDER

Plaintiff Kentrell Welch is a pro se inmate in the custody of the Nevada Department of Corrections. He initiated this lawsuit by applying to proceed *in forma pauperis* and submitting a civil rights complaint under 42 U.S.C. § 1983. (ECF Nos. 1, 1-1.) The complaint has not been screened under 28 U.S.C. § 1915A, and Plaintiff has moved to file an amended complaint and submitted a proposed first amended complaint. (ECF Nos. 7, 8.)

Plaintiff's motion to amend is granted, so the Clerk of Court will be directed to file the First Amended Complaint. The First Amended Complaint replaces the original complaint, such that the original complaint is now treated as "non-existent." *See Rhodes v. Robinson*, 621 F.3d 1002, 1005 (9th Cir. 2010) ("As a general rule, when a plaintiff files an amended complaint, '[t]he amended complaint super[s]sides the original, the latter being treated thereafter as non-existent.'").

It is unclear if Plaintiff was aware that the First Amended Complaint would completely replace the original complaint. (*See* ECF No. 8 at 2 (stating that the amended complaint is "vitally important to the entire complaint").) So the Court will give Plaintiff until **December 2, 2024**, to file an optional Second Amended Complaint. Plaintiff is advised that any Second Amended Complaint must be complete in itself, meaning that the Second Amended Complaint must contain all claims, defendants, and factual allegations that Plaintiff wishes to pursue in this lawsuit. In other words, the Second Amended Complaint must stand on its own, without reference to the original complaint or the First Amended Complaint. *See* Nev. Loc. R. IA 15-1(a) (stating that an

1 “amended pleading must be complete in and of itself without reference to the superseded
2 pleading”); *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir.
3 1989) (“The fact that a party was named in the original complaint is irrelevant; an amended
4 pleading supersedes the original.”). If Plaintiff chooses to file a Second Amended Complaint, the
5 Court will screen it in due course. If Plaintiff chooses not to file a Second Amended Complaint,
6 the Court will screen the First Amended Complaint only, without reference to the original
7 complaint.

8 IT IS THEREFORE ORDERED that Plaintiff’s motion to file an amended complaint (ECF
9 No. 8) is GRANTED.


10 IT IS FURTHER ORDERED that the Clerk of Court must file the First Amended
11 Complaint (ECF No. 7) and send Plaintiff courtesy copies of the original complaint (ECF No. 1-
12 1) and the First Amended Complaint (ECF No. 7).

13 IT IS FURTHER ORDERED that the original complaint (ECF No. 1-1) is dismissed
14 without prejudice.

15 IT IS FURTHER ORDERED that the Clerk of Court must send Plaintiff the approved form
16 for filing a § 1983 complaint and instructions for the same. If Plaintiff chooses to file an amended
17 complaint, he should use the approved form and he will title it “Second Amended Complaint.”

18 IT IS FURTHER ORDERED that Plaintiff has until **December 2, 2024**, to file a Second
19 Amended Complaint. If Plaintiff chooses not to file a Second Amended Complaint, the Court will
20 screen the First Amended Complaint only, without reference to the original complaint.

21 DATED: October 30, 2024.

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24 _____
25 Brenda Weksler
26 United States Magistrate Judge
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